

U.S. DISTRICT COURT
EASTERN DISTRICT-WI
FILED

2020 JAN -5 P 2:25
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
CLERK OF COURT

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 21-CR-005

v.

JOHN D. WHELAN and
TINA MONTEZON

[21 U.S.C. §§ 841(a)(1),
841(b)(1)(C), 846, 856(a); 18 U.S.C.
§§ 2, 1001]

Defendants.

INDICTMENT

THE GRAND JURY CHARGES THAT:

Allegations Common to All Counts

1. At all times relevant to this indictment:
 - a. John D. Whelan ("Whelan") was a psychiatrist licensed in the State of Wisconsin.
 - b. Beginning in January 2018, Whelan prescribed controlled substances from a residence owned by Tina Montezon ("Montezon"), located on Clinton Street in Fond du Lac, Wisconsin (the "Clinton Street House").
 - c. Whelan possessed a registration with the United States Drug Enforcement Administration ("DEA") that authorized him to prescribe, administer, dispense, and

distribute controlled substances, including the following:

- i. Ritalin, a Schedule II controlled substance;
 - ii. Methylphenidate, a Schedule II controlled substance;
 - iii. Buprenorphine, a Schedule III controlled substance;
 - iv. Xanax, a Schedule IV controlled substance; and
 - v. Adderall, a Schedule IV controlled substance.
- d. Whelan possessed a DATA-waiver from the DEA to allow him to prescribe controlled substances intended for the treatment of substance-abuse disorders, such as Buprenorphine, often in the form of brand names Suboxone and Subutex, which are Schedule III controlled substances.
- e. As a DEA registrant, Whelan was permitted to prescribe, administer, dispense, and distribute controlled substances only for a legitimate medical purpose within the scope of his professional practice.
- f. The term “dispense” includes issuing a prescription for a controlled substance.
- g. Montezon was not a licensed prescriber and did not possess a DEA registration that allowed her to prescribe, administer, dispense, and distribute controlled substances.

COUNT ONE

(Conspiracy to Distribute Controlled Substances)

THE GRAND JURY FURTHER CHARGES THAT:

1. Beginning by at least January 2018 and continuing through at least December 2020,
in the State and Eastern District of Wisconsin,

**JOHN D. WHELAN and
TINA MONTEZON**

knowingly and intentionally conspired with each other, and with persons known and unknown to the grand jury, to distribute controlled substances, including Buprenorphine, Ritalin, Xanax, and Adderall, Schedule II, III, and IV controlled substances, outside of a professional medical practice and not for a legitimate medical purpose, in violation of Title 21, United States Code, Section 841(a)(1).

All in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(C), and 846.

COUNT TWO

(Maintaining a Drug-Involved Premises)

THE GRAND JURY FURTHER CHARGES THAT:

From on or about January 2018, and continuing through December 2020, in the State and Eastern District of Wisconsin,

**JOHN D. WHELAN and
TINA MONTEZON**

aided and abetted by others, knowingly, intentionally, and unlawfully maintained a place, located on Clinton Street, Fond du Lac, Wisconsin, for the purpose of distributing controlled substances outside the usual course of professional practice and without a legitimate medical purpose.

In violation of Title 21, United States Code, Section 856(a)(1) and Title 18, United States Code, Section 2.

COUNTS THREE THROUGH THIRTEEN

(Distribution of Controlled Substances)

THE GRAND JURY FURTHER CHARGES THAT:

On or about the dates listed below, in the State and Eastern District of Wisconsin, the below-named defendants knowingly and intentionally distributed and dispensed unlawfully the controlled substances listed, to the patient listed, outside of a professional medical practice and not for a legitimate medical purpose.

Count	Date	Patient	Prescription Drug(s)	Defendant(s)
Three	December 2, 2018	J.K.	180 tablets Subutex 2mg	John Whelan
Four	December 29, 2018	J.K.	180 tablets Subutex 2mg	John Whelan
Five	January 26, 2019	J.K.	180 tablets Subutex 2mg	John Whelan
Six	March 2, 2019	J.K.	180 tablets Subutex 2mg	John Whelan
Seven	July 25, 2020	J.K.	90 tablets Subutex 8mg	John Whelan Tina Montezon
Eight	August 22, 2020	J.K.	90 tablets Subutex 8mg	John Whelan Tina Montezon
Nine	August 22, 2020	J.M.	90 Films Suboxone 8mg/2mg; 90 tablets Adderall 30mg	John Whelan Tina Montezon
Ten	September 19, 2020	J.K.	90 Films Suboxone 8mg/2mg; 40 tablets Methylphenidate 20 mg	John Whelan Tina Montezon
Eleven	September 19, 2020	J.M.	90 Films Suboxone 8mg/2mg; 90 tablets Adderall 30mg	John Whelan Tina Montezon
Twelve	October 17, 2020	J.K.	90 Films Suboxone 8mg/2mg; 60 tablets Methylphenidate 20 mg	John Whelan Tina Montezon

Count	Date	Patient	Prescription Drug(s)	Defendant(s)
Thirteen	October 17, 2020	J.M.	90 Films Suboxone 8mg/2mg; 90 tablets Adderall 30mg	John Whelan Tina Montezon

Each in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C)
and Title 18, United States Code, Section 2.

COUNT FOURTEEN

(False Statement or Representation Made to a Department or Agency of the United States)

THE GRAND JURY FURTHER CHARGES THAT:

1. On or about December 3, 2020, in the State and Eastern District of Wisconsin,

JOHN D. WHELAN

did willfully and knowingly make a materially false, fictitious, and fraudulent statement and representation in a matter within the jurisdiction of the executive branch of the Government of the United States, by representing to Diversion Investigators with the Drug Enforcement Administration, that his Saturday prescribing at the Clinton Street House in Fond du Lac, Wisconsin was not a for-profit business enterprise.

2. The statement and representation was false because, as Whelan then and there knew, he charged between \$200-\$300 for his Saturday prescribing, which funds were deposited into his personal bank accounts.

In violation of Title 18, United States Code, Section 1001.

COUNT FIFTEEN

(False Statement or Representation Made to a Department or Agency of the United States)

THE GRAND JURY FURTHER CHARGES THAT:

1. On or about December 3, 2020, in the State and Eastern District of Wisconsin,

TINA MONTEZON

did willfully and knowingly make a materially false, fictitious, and fraudulent statement and representation in a matter within the jurisdiction of the executive branch of the Government of the United States, by representing to a Diversion Investigator with the Drug Enforcement Administration, that John D. Whelan never pre-signs blank prescriptions, and does not allow patients to pick up prescriptions for other patients without reason and authorization from the person for whom the prescription was written.

2. The statements and representations were false because, as Montezon then and there knew, she had in her possession a blank, pre-signed prescription provided to her by Whelan and had personally given out prescriptions to J.M., which were written for J.K., without requiring J.M. to provide a reason that J.K. could not pick up the prescription or requiring verbal authorization from J.K.

In violation of Title 18, United States Code, Section 1001.

FORFEITURE NOTICE

1. Upon conviction of the controlled substance offense alleged in Count One of this Indictment, the defendants, John D. Whelan and Tina Montezon, shall forfeit to the United States, pursuant to Title 21, United States Code, Section 853, any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of the violation and any property used, or intended to be used, in any manner or part, to commit or to facilitate the commission of the violation, including but not limited to a sum of money equal to the amount of proceeds obtained as a result of the offense. The property to be forfeited includes, but is not limited to, the following items:

- a. The residential real property located at 2715 Newberry Avenue, Green Bay, WI 54302;
- b. \$3,000.00 in U.S. currency seized from John D. Whelan on or about December 3, 2020;
- c. \$4,066.00 seized from BMO Harris Bank Account xxx5981 on or about December 3, 2020;
- d. \$17,821.77 seized from BMO Harris Bank Account xxx4312 on or about December 3, 2020;
- e. \$888.17 seized from BMO Harris Bank Account xxx0370 on or about December 3, 2020;
- f. \$28,498.00 seized from Wells Fargo Bank Account xxx0046 on or about December 3, 2020;

- g. 2013 AUDI TT 2.0T passenger car bearing VIN TRUSFAFK7D1013078
seized on or about December 3, 2020; and
- h. 2017 Subaru Outback passenger car bearing VIN 4S4BSANC2H3349971
seized on or about December 3, 2020.

2. If any of the property described above, as a result of any act or omission by a defendant: cannot be located upon the exercise of due diligence; has been transferred or sold to, or deposited with, a third person; has been placed beyond the jurisdiction of the Court; has been substantially diminished in value; or has been commingled with other property which cannot be subdivided without difficulty, the United States of America shall be entitled to forfeiture of substitute property, pursuant to 21 U.S.C. § 853(p).

A TRUE BILL:



FOREPERSON

Date: January 5, 2021



MATTHEW D. KRUEGER
United States Attorney